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Organizing of Teaching Faculty in Private Higher Education Bucks a Long-Standing Historical Trend in American Unionization

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As the New Deal and the Second World War raised American industry out of the depths of the Great Depression to the pinnacle of international supremacy from 1933 through 1945, so too did organized labor achieve unprecedented—indeed, undreamed of—power, prestige, and membership numbers. By 1947, so numerous were labor unions' ranks and so potent its leaders that Senator Robert Taft (Mr. Conservative) successfully led the enactment of the Taft-Hartley Act... the National Labor Relations Act's first and still most sweeping revision.

Though they added labor-union unfair labor practices and outlawed secondary boycotts, the 1947 amendments to the NLRA did little or nothing to slow organized labor's ongoing expansion. As American industry itself burgeoned in a world otherwise devastated by seven years of total war, American unions in the 1950s and 1960s could claim the loyalty of one in every three private-sector workers.

This positive, or direct, correlation between American industrial might and labor union membership held firm as the resurgence of the German, Japanese and EU economies, the rise of new competitors such as China and India, and the globalization of manufacturing, trade, and the workforce eroded America's postwar industrial dominance. As companies closed down or migrated from the "Rust Belt," American private-sector union membership slid from 1:3 to fewer than 1:10 private-sector workers today. So close-knit are the two variables that one might reasonably conclude that the correlation is tantamount to an economic law.

Economic Laws Are Made To Be Broken?

Indisputably, the private sector of American higher education is enduring a severe contraction, to wit:

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More than 5% of American colleges closed or stopped being able to take federal financial aid last year. That's a significant increase from previous years and a sign of the sharp decline of the for-profit college sector, according to a government report released this week.

The number of schools eligible to receive federal aid, a measure of how many schools are open nationwide, fell by 5.6% in the 2016–2017 school year, the fourth year in a row that the number of colleges getting aid has declined. Last year, though, the decline was just 2%, and the year before, it was 1%. (Hensley-Clancy, 2017)

The past three academic years have brought no respite to beleaguered administrators and faculty in the academy's private sectors (profit and non-profit, alike). Equally ominous, Harvard Business School's Professor Clay Christensen, the guru of "disruptive innovation," stands by his 2011 prediction that in the next couple of decades half of all private-sector colleges and universities are likely to lock their gates and/or declare bankruptcy. (Christensen & Horn, 2017)

If the correlation, so clearly identifiable in the American mining and manufacturing industries, represents a general economic law, then we should be witnessing a concomitant decline in union organizing and membership in private higher ed.

Au contraire, as the private sector of our industry—the Ivy League and other wealthy, prestigious institutions excepted—battles, often unsuccessfully, against the perfect storm of declining enrollments, deepening discounts, and ever-intensifying competition, organizing of instructional staff is enjoying a Renaissance. The basis for an explanation of this phenomenon may be found in the following two data points: During most of the second half of the 20th century, tenured/tenure-track faculty comprised some two-thirds of the American professorate. Today, only about one in three faculty enjoy this privileged status... and even many of them, especially junior faculty still only on the track to tenure, are suffering severe bouts of anxiety and insecurity. (Ortlieb & Weiss, 2018)

If those on the tenure track, and even some tenured faculty at weaker institutions, are grappling with angst, consider how insecure the other three segments of the private-sector teaching workforce—full-time contingent faculty, part-time adjunct faculty, and graduate assistants—must feel. Concerning the latter of these three categories, William Herbert, executive director of the National Center for the Study of Collective Bargaining in Higher Education and the Professions, reports, "The hottest sector of campus organizing is among graduate students."² He cites Brandeis, Brown, Georgetown, and the New School among the more prestigious private-sector schools that are either in new labor contracts with their GAs or are at the table negotiating them.

² Personal communication with the author.

Private-sector grad assistants not only are organizing in unprecedented numbers. They also are bringing back the strike, a venerable labor tactic that has faded into obscurity in most of the American heavy industrial sectors. A case on point: In June 2019, GAs at the University of Chicago hit the picket line, protesting what they termed low pay, high healthcare costs, and a recalcitrant administration loath to recognize their union. (Esposito, 2019)

Meanwhile, contingent and adjunct faculty, as well, are on the march to unionization. By way of example, as of June 2018, 54,000 faculty on 60 campuses had organized under the auspices of the Service Employees International Union's "Faculty Forward" initiative. (Dubb, 2018) Other players in the organizing game, from the American Association of University Professors to the United Auto Workers, are realizing representation victories.

Why this apparent negative, or inverse, correlation between the decline of private higher ed and the increase in teaching-faculty affinity with unions? In my opinion, the flipped ratio, noted above, is the principal catalyst of this reversal of organized labor's [mis]fortune in its traditional bastions of strength.

They Would If They Could?

It's not that tenured and tenure-track faculty in private higher ed weren't interested in unionization. The 1970s saw a surge in union organizing at private colleges and universities. Then along came the U.S. Supreme Court's *Yeshiva University* decision (NLRB, 1980), which ruled that tenured faculty are managers and as such stripped of the protections of the National Labor Relations Act. Numerous private universities withdrew recognition of their full-time faculty unions and declined to renegotiate their collective bargaining agreements. With tenured/tenure-track faculty in the majority, the AAUP and other unions abandoned the field. Fast forward to 2020, when a significant majority of instructors are contingent, adjunct or GA faculty—none of whom are even arguably members of management—and all of whom harbor substantial grievances (real or perceived) against their institutions—and another run at organizing them is a no-brainer.

However, if this initiative is a no-brainer, that doesn't mean it's a cakewalk. The status of private-sector GAs—primarily employees or students?—has been a political football at least since Clinton's second administration. The Trump-appointed NLRB majority has signaled its intent to end the flipping and flopping on this issue by enacting regulations that would end GA organizing and collective bargaining.

But, as for full- and part-time contingent faculty, not even the most rabid pro-employer lawyer, lawmaker, or jurist would seriously argue that they are anything but employees eligible to organize and bargain under the auspices of the labor act. And, in a perverse way, the declining

fortunes of private-sector higher education tend to work in favor of contingent faculty, as financially strapped schools strive to trim the tenured professorate in favor of faculty who will teach more and cost less. For such instructors, the obviously exploitative nature of this shift from tenured to contingent teachers is the emotional component that ignites this volatile brew. Further, for most of this workforce, the only path to improved job security and compensation is a union... and I think they know that in their guts.

Contrast this state of affairs to, let's say, the auto parts industry. The late 1970s through the late 1990s witnessed a two-decade migration of that industry from the industrial Northeast and Midwest, mostly to Mexico.

In one of General Motors' sprawling auto parts plants in a Matamoros industrial park just south of the Rio Grande, thousands of Mexican workers earn \$1 to \$2 an hour producing instrument panels and steering wheels for G.M. cars and trucks.

Until just a few years ago, United States workers earning close to \$22 an hour at G.M.'s Delphi East factory in Flint, Mich., made the instrument panels. And those at a plant to the north in Saginaw produced the steering wheels.

G.M.'s shift of production from Flint and Saginaw to this border city facing Brownsville, Tex., was part of a sweeping 20-year transfer of its United States auto parts industry across the border. Since 1978, General Motors has built more than 50 parts factories in Mexico, which today employ 72,000 workers, making its parts subsidiary, Delphi Automotive Services, Mexico's largest private employer. (Dillon, 1998)

Earlier I cited the University of Illinois at Chicago as the situs of a GA strike in mid-2019. Is University of Illinois going to move to Mexico? Is it going to go entirely online/AI and dispense with human instructors? Is any private-sector college or university going to do either of these things? I firmly believe the answer is "no." And since one might fairly argue that the contingent, and especially the part-time faculty, are analogous to those Mexican workers earning \$2.00/hour in 1998, a private institution has no place else to go to staff its classes, both face-to-face and online.

And therein lies my explanation for why organizing of teaching faculty in private higher ed reflects a negative, or inverse, correlation with the declining fortunes of that sector of our industry, and my prediction that the pace of organizing contingent faculty in private higher ed will be a sustained, if not an accelerating, phenomenon in the decade just begun. At the end of the current cycle of change, like Dr. Christensen, I see fewer private colleges and universities, and I see their faculties mostly unionized.

References

- Clayton M. Christensen, C. M. & Horn, M. B. "Perilous Times," *Inside Higher Ed*, April 1, 2019, accessed at <https://www.insidehighered.com/views/2019/04/01/many-private-colleges-remain-danger-opinion>
- Dillon, S. "INTERNATIONAL BUSINESS; a 20-year G.M. parts migration to Mexico," *New York Times*, June 24, 1998, accessed at <https://www.nytimes.com/1998/06/24/business/international-business-a-20-year-gm-parts-migration-to-mexico.html>
- Dubb, S. "Unions Gain Among Adjunct Faculty and Graduate Instructors on Campuses," *Nonprofit Quarterly*, June 3, 2018, accessed at <https://nonprofitquarterly.org/unions-gain-among-adjunct-faculty-and-graduate-instructors-on-campuses/>
- Esposito, S. "U. of C. graduates' strike into third day, no end in sight," *Chicago Sun-Times*, June 5, 2019, accessed at <https://chicago.suntimes.com/2019/6/5/18654232/university-chicago-graduates-strike-pay-health-care-union>
- Hensley-Clancy, M, "Colleges All Across the US Are Closing at an Accelerated Rate," *BuzzFeed News*, July 19, 2017, accessed at <https://www.buzzfeednews.com/article/mollyhensleyclancy/lots-of-us-colleges-closed-last-year-as-for-profit-sector>
- NLRB v. Yeshiva University, 444 U.S. 672 (1980).
- Ortlieb, R. & Weiss, S, "What makes academic careers less secure? The role of individual-level antecedents," *Higher Education*, 76:4, 571-587 (October 2018), accessed at <https://link.springer.com/article/10.1007/s10734-017-0226-x>